

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAMION E. JOHNSON,

Defendant.

4:96-CR-3057

ORDER

This matter is before the Court on the defendant's motion to extend the time for filing a direct appeal ([filing 144](#)). *See Fed. R. App. P. 4(b)(4)*. For good cause shown, the Court will grant the defendant's motion.

The order from which the defendant wants to appeal in this case ([filing 142](#)) was filed on October 30, 2024, so the initial deadline for filing a notice of appeal was November 13.<sup>1</sup> *See Rule 4(b)(1)(A); see also Rule 4(b)(6) (order is entered for purposes of Rule 4(b) when entered on the criminal docket).* Rule 4(b)(4) permits a 30-day extension from that deadline, which would be December 13. The Court will extend the appeal deadline that far. The defendant is advised, however, that Rule 4(b)(4) will permit no further

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<sup>1</sup> The Court notes that the 3-day mailing rule set forth in both *Fed. R. Crim. P. 45(c)* and *Fed. R. App. P. 26(c)*, which extends the filing period "[w]hen a party may or must act within a specified time after service," does not apply here because the time to file a notice of appeal runs from the entry of judgment, not its service upon the parties. *See, Arnold v. Wood*, 238 F.3d 992, 995 n.2 (8th Cir. 2001); *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Kurtenbach*, 525 F.2d 1179, 1181-82 (8th Cir. 1975); *see also United States v. Morrison*, 980 F.2d 735 (8th Cir. 1992) (unpublished table decision); *see generally* 16AA Charles Alan Wright and Arthur R. Miller, *Federal Practice and Procedure* § 3972.1 (4th ed. 2008 & Supp. 2014).

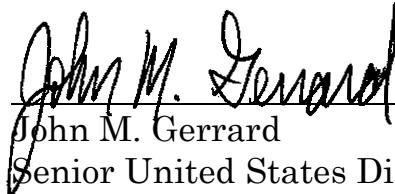
extension—the Court has no authority to extend the deadline to appeal any further than December 13.<sup>2</sup>

IT IS ORDERED:

1. The defendant's motion to extend the time to appeal ([filing 144](#)) is granted.
2. The defendant may file a notice of appeal on or before December 13, 2024.

Dated this 25th day of November, 2024.

BY THE COURT:



John M. Gerrard  
Senior United States District Judge

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<sup>2</sup> In other words, the defendant must deposit a notice of appeal in the prison mailing system on or before December 13, 2024, following the "prison mailbox rules" found in the Federal Rules of Appellate Procedure. *See Rule 4(c)(1)(A).*